

AMENDED IN SENATE APRIL 3, 1995

**SENATE BILL**

**No. 509**

**Introduced by Senator Campbell**

February 17, 1995

---

---

An act to amend Sections 4055, ~~4320, and 4330~~ *and 4320* of the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

SB 509, as amended, T. Campbell. Child and spousal support.

Existing law sets forth the statewide uniform guideline for determining child support orders, under which the court is required to determine the approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent.

This bill would require this amount of time to be calculated according to the number of hours that each parent has primary physical responsibility for the children on each day, *except where both parents maintain sleeping accommodations for the children, in which case this amount of time would be calculated according to the number of waking hours that each parent has primary physical responsibility for the children on each day.*

Under existing law, in a judgment of dissolution of marriage or legal separation of the parties, the court is authorized to order a party to pay spousal support, as the court determines is just and reasonable, based on the standard of living established during the marriage and taking into consideration specified circumstances.

This bill would ~~prohibit the court from using any formula or presumption based on the length of the marriage in ordering spousal support, and would~~ require the court to consider additional specified circumstances in ordering spousal support.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4055 of the Family Code is  
2 amended to read:  
3 4055. (a) The statewide uniform guideline for  
4 determining child support orders is as follows:  $CS = K$   
5  $[HN - (H\%)(TN)]$ .  
6 (b) (1) The components of the formula are as follows:  
7 (A)  $CS$  = child support amount.  
8 (B)  $K$  = amount of both parents' income to be  
9 allocated for child support as set forth in paragraph (3).  
10 (C)  $HN$  = high earner's net monthly disposable  
11 income.  
12 (D)  $H\%$  = approximate percentage of time that the  
13 high earner has or will have primary physical  
14 responsibility for the children compared to the other  
15 parent.  $H\%$  shall be calculated according to the number  
16 of hours that each parent has primary physical  
17 responsibility for the children on each day *except where*  
18 *both parents maintain sleeping accommodations for the*  
19 *children, in which case  $H\%$  shall be calculated according*  
20 *to the number of waking hours that each parent has*  
21 *primary physical responsibility for the children on each*  
22 *day*. In cases in which parents have different time-sharing  
23 arrangements for different children,  $H\%$  equals the  
24 average of the approximate percentages of time the high  
25 earner parent spends with each child.  
26 (E)  $TN$  = total net monthly disposable income of both  
27 parties.  
28 (2) To compute net disposable income, see Section  
29 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income Per Month	K
\$0–800	$0.20 + TN/16,000$
\$801–6,666	0.25
\$6,667–10,000	$0.10 + 1000/TN$
Over \$10,000	$0.12 + 800/TN$

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (1 + 0.20) \times 0.25$ , or 0.30. If H% equals 80 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (2 - 0.80) \times 0.25$ , or 0.30.

(4) For more than one child, multiply CS by:

2 children	1.6
3 children	2
4 children	2.3
5 children	2.5
6 children	2.625
7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of that amount to the higher earner.

(6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100

1 if the custodial parent is the higher earner, where there  
2 is no evidence presented demonstrating the percentage  
3 of time that the noncustodial parent has primary physical  
4 responsibility for the children.

5 (7) Unless the court orders otherwise, the order for  
6 child support shall allocate the support amount so that the  
7 amount of support for the youngest child is the amount  
8 of support for one child, and the amount for the next  
9 youngest child is the difference between that amount and  
10 the amount for two children, with similar allocations for  
11 additional children. However, this paragraph does not  
12 apply to cases where there are different time-sharing  
13 arrangements for different children or where the court  
14 determines that the allocation would be inappropriate in  
15 the particular case.

16 SEC. 2. Section 4320 of the Family Code is amended  
17 to read:

18 4320. In ordering spousal support under this part, the  
19 court shall consider all of the following circumstances:

20 (a) The extent to which the earning capacity of each  
21 party is sufficient to maintain the standard of living  
22 established during the marriage, taking into account all  
23 of the following:

24 (1) The marketable skills of the supported party; the  
25 job market for those skills; the time and expenses  
26 required for the supported party to acquire the  
27 appropriate education or training to develop those skills;  
28 and the possible need for retraining or education to  
29 acquire other, more marketable skills or employment.

30 (2) The extent to which the supported party's present  
31 or future earning capacity is impaired by periods of  
32 unemployment that were incurred during the marriage  
33 to permit the supported party to devote time to domestic  
34 duties.

35 (b) The extent to which the supported party  
36 contributed to the attainment of an education, training,  
37 a career position, or a license by the supporting party.

38 (c) The ability to pay of the supporting party, taking  
39 into account the supporting party's earning capacity,

1 earned and unearned income, assets, and standard of  
2 living.

3 (d) The needs of each party based on the standard of  
4 living established during the marriage.

5 (e) The obligations and assets, including the separate  
6 property, of each party.

7 (f) The duration of the marriage.

8 (g) The ability of the supported party to engage in  
9 gainful employment without unduly interfering with the  
10 interests of dependent children in the custody of the  
11 party.

12 (h) The age and health of the parties.

13 (i) The immediate and specific tax consequences to  
14 each party.

15 (j) The balance of the hardships to each party.

16 (k) The goal that the supported party shall eventually  
17 be self-supporting *after a reasonable period of time no*  
18 *greater than one-half of the duration of the marriage.*

19 ~~(l) The practicalities of whether the supported party~~  
20 ~~is actually receiving support from a person from whom he~~  
21 ~~or she has a claim for continued support.~~

22 ~~(m)~~

23 (l) Any other factors the court determines are just and  
24 equitable.

25 ~~SEC. 3. Section 4330 of the Family Code is amended~~  
26 ~~to read:~~

27 ~~4330. In a judgment of dissolution of marriage or legal~~  
28 ~~separation of the parties, the court may order a party to~~  
29 ~~pay for the support of the other party an amount, for a~~  
30 ~~period of time, that the court determines is just and~~  
31 ~~reasonable, based on the standard of living established~~  
32 ~~during the marriage, taking into consideration the~~  
33 ~~circumstances as provided in Chapter 2 (commencing~~  
34 ~~with Section 4320). The court shall not use any formula or~~  
35 ~~presumption based on the length of the marriage in~~  
36 ~~ordering spousal support.~~